

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

JERRY MELVIN KEY,

Plaintiff,

v.

**CIVIL ACTION NO. 3:07-CV-96
(BAILEY)**

**JUDGE JACK ALSOP, RANDOLPH COUNTY
COURT, DEPARTMENT HUMAN HEALTH
SERVICES, MID-OHIO VALLEY FELLOWSHIP,
PATRICE ZUCKER, RICHARD SHYROCK,
EARL MAXWELL AND JUDGE JOHN HEINING,**

Defendants.

ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Opinion/Report and Recommendation of United States Magistrate Judge John S. Kaull. By Standing Order, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Kaull filed his R & R on August 22, 2008 [Doc. 19]. In that filing, the magistrate judge recommended that this Court deny and dismiss the plaintiff's civil rights Complaint [Doc. 1].

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984).


Here, objections to Magistrate Judge Kaull's R & R were due within ten (10) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was accepted on August 25, 2008. Accordingly, any objections were due by September 12, 2008. No objections have been filed. Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's **Opinion/Report and Recommendation [Doc. 19]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court hereby **DENIES and DISMISSES with prejudice** the plaintiff's civil rights Complaint under 28 U.S.C. § § 1915(e) and 1915(a) **[Doc. 1]** for failure to state a claim. Therefore, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: September 22, 2008.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE